

**PROCEEDINGS OF THE BROWN COUNTY**  
**LAND CONSERVATION SUBCOMMITTEE**

Pursuant to Section 18.94 Wis. Stats., a regular meeting of the **Brown County Land Conservation Subcommittee** was held on Monday, March 22, 2010 in Room 161, UW-Extension -1150 Bellevue Street, Green Bay, Wisconsin

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**Present:** Norb Dantinne, Bernie Erickson, Dan Haefs, Dave Kaster  
**Excused:** Mike Fleck, Norb VandeHei  
**Also Present:** Bill Hafs, Jon Bechle, Jim Jolly, Dave Wetenkamp  
Tom Hinz, Jayme Sellen  
Other Interested Parties, Media

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- I. **Call Meeting to Order:**  
The meeting was called to order by Chairman Norb Dantinne at 5:35 p.m.

- II. **Approve/Modify Agenda:**  
Addition of 13a

**Motion made by Supervisor Erickson and seconded by Supervisor Kaster to approve the agenda as amended. MOTION APPROVED UNANIMOUSLY**

- III. **Approve/Modify Minutes of Land Conservation Subcommittee of December 28, 2009:**

**Motion made by Supervisor Erickson and seconded by Supervisor Haefs to approve the minutes. MOTION APPROVED UNANIMOUSLY**

1. **Variance Requests from Quiet Crest Farms to build a barnyard within 100 feet of a neighbor property line. (See attachment):**

Notice of Intent (Animal Feedlot) distributed by Dave Wetenkamp, Engineering Technician, LCC Department, signed by Kevin and Lisa Collins, neighbors of Quiet Crest Farm, indicating they have no objections with placing the feedlot within 100 feet of their property line (attached).

**Motion made by Supervisor Erickson and seconded by Supervisor Kaster to approve the variance request from Quiet Crest Farms.**

Supervisor Haefs asked for reconsideration of the motion, stating that a hardship is usually required for approval of a variance. He indicated that just because the neighbor approves, he may do that to be neighborly, and may not always be the neighbor. LCC Director, Bill Hafs, explained that the hardship is economic and necessary to increase operations. Supervisor Haefs asked that if approval is given, it be more specific.

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to approve the 46 foot variance for a barn and proposed barn per the specific drawings. MOTION APPROVED UNANIMOUSLY**

**2. Report on March 10, 2010 meeting with Todd Parczick – Cow Manure-2-Energy:**

Minutes from the Kick Off Meeting for Manure Issues held on 3-1-2001 was distributed, along with a copy of the power point presentation (attached). Hafs reported that information was provided at the meeting which was found to be consistent with the Land & Water Conservation Department goals of sustaining the dairy livestock industry and protecting surface and groundwater resources in Brown County. Hafs offered department support by joining in grant applications that can help start the bio systems described, and also offered technical assistance to review any proposals that may be developed. Hafs indicated that staff member, Brad Holtz, has worked on composting and waste transformation projects for over 5 years and could be helpful from a technical assistance standpoint. In addition, Brent Peterson could be of assistance regarding agronomic technical assistance.

**Motion made by Supervisor Erickson and seconded by Supervisor Kaster to receive and place on file. MOTION APPROVED UNANIMOUSLY**

**3. Review of Brown County Subsidies to Agriculture (Materials will be handed out at meeting):**

Information related to "Brown County USDA Subsidies" was distributed to committee members for review. Hafs stated the last report was dated 2006 and covered a 10 year period.

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to receive and place on file. MOTION APPROVED UNANIMOUSLY**

**4. Review of Animal Waste Management Ordinance Provisions regarding New Technology:**

Haefs reported there has been an Animal Waste Ordinance in effect since the early 1980's which regulates the construction of animal waste storage facilities, setbacks, etc. Although during that time there have been no requests for "other waste facilities", the department has recently received a request to design a facility for industrial waste. As the ordinance does not address this, meetings have been held with legal counsel and the DNR. Staff recommendation, per the DNR, is to issue a joint permit. Hafs requested that the committee refer the matter to legal counsel to come back with language which will address the matter.

**Motion made by Supervisor Haefs and seconded by Supervisor Kaster to direct staff to draft appropriate language into the current code/ordinance. MOTION APPROVED UNANIMOUSLY**

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to draft the appropriate resolution to the DNR and bring back to committee.**

**MOTION APPROVED UNANMOUSLY**

**5. Review and Approve 2009 Land & Water Conservation Department Annual Report and 2010 Annual Work Plan:**

The 2009 Annual Report and 2010 Work Plan was highlighted by Director Haefs, who pointed out several projects which have been delayed contingent on funding and staff time.

**Motion made by Supervisor Erickson and seconded by Supervisor Haefs to approve. MOTION APPROVED UNANMOUSLY**

**6. Update on Grant Applications for Great Lakes Restoration Initiative:**

**a. Baird Creek Riparian Protection Project RFP - \$377,354:**

This project will focus on buffer strip installation in key sections of the Baird Creek watershed to reduce agriculture nutrient, sediment, and pesticide loading and ultimately the lower Fox River and Bay of Green Bay.

**b. Improving Water Quality with FGD Gypsum in Green Bay's Lower Fox River - \$597,218:**

This project will focus on field testing of gypsum application to agricultural crop fields as a soil amendment in key high P testing fields of the lower Fox River Watershed to reduce agriculture nutrient and sediment loading to the lower Fox River and Bay of Green Bay.

**c. Improving Water Quality in Lower Fox River – Green Bay TMDL by Reduction of Soil Phosphorus Levels by Relocation of Animal Waste from High Phosphorus Fields to Low Phosphorus Fields - \$537,389:**

This project will focus on reduction of soil phosphorus levels in high phosphorus agriculture fields of the lower Fox River Watershed to reduce agriculture nutrient and sediment loading to the lower Fox River and the Bay of Green Bay.

**d. West Shore Green Bay Northern Pike Habitat Project - \$305,815 – Jim Jolly:**

The Northern Pike is Wisconsin's second largest predator fish and is an important part of the Green Bay ecosystem and fish community. Northern Pike have become scarce in Green Bay due to wetland habitat losses, and in addition, fish encounter passage obstacles when leaving Green Bay to find spawning marshes. The LWCD has been successful in restoring Northern Pike habitat on private land in the Suamico and Little Suamico watersheds. This proposal seeks funding to continue work in Brown County and to support the transference of this project's success to other western Green Bay locales in both Brown and Oconto Counties.

**Motion made by Supervisor Haefs and seconded by Supervisor Kaster to receive and place on file 6a, b, c, & d.**

**MOTION APPROVED UNANMOUSLY**

7. **Land & Water Conservation Department Monthly Budget Update. (Copy will be provided at meeting):**

An updated budget report was distributed and is attached. Hafs reported that all budget categories are on track.

**Motion made by Supervisor Erickson and seconded by Supervisor Haefs to receive and place on file. MOTION APPROVED UNANMOUSLY**

8. **Wildlife Damage Control Program – Jon Bechle:**

a. **Wisconsin Deer Donation (Hunt for the Hungry):**

Jon Bechle pointed out information in packet material relative to a ten year summary of the Wisconsin Deer Hunt for the Hungry Program, stating that in 2009 deer donations have decreased.

b. **Damage Claims:**

There were nine damage claims submitted to the State in 2009 for approximately \$35,000. These claims are related to damage by deer, geese, and turkey.

c. **Green Bay Authorized Bow Hunt:**

Bechle reported that hunting at the Mental Health Center as part of the Green Bay Authorized Bow Hunt resulted in 12 deer being harvested.

**Motion made by Supervisor Kaster and seconded by Supervisor Erickson to receive and place on file. MOTION APPROVED UNANMOUSLY**

9. **Ozaukee County Resolution:**

This resolution is in support of the Attorney General and Governor of Wisconsin to pursue remedies to stop Asian Carp species from entering Lake Michigan and protect Wisconsin interests.

**Motion made by Supervisor Erickson and seconded by Supervisor Haefs to approve the concept of the resolution with appropriate changes relative to Brown County. MOTION APPROVED UNANMOUSLY**

10. **Wisconsin Land & Water Conservation Association Request for \$800 Special Assessment:**

Bill Hafs referred to an update from the Wisconsin Land & Water Conservation Board, which indicated that at the 2009 Annual Conference, because of a grim 2010 budget, members proposed a special assessment of \$800 per county. As of February 2010, 32 counties have provided funds for the special assessment. Hafs indicated that funds are available through the LCC budget grant dollars and, therefore, recommended approval.

Supervisor Haefs stated that because of the present economy and unemployment in the county, he would not support this request.

**Motion made by Supervisor Erickson and seconded by Supervisor Kaster to approve the \$800 special assessment to the Wisconsin Land & Water Conservation Association and that it be taken from LCC budget grant dollars.**

**Ayes: Dantinne, Erickson, Kaster**

**Nays: Haefs**

**MOTION APPROVED 3-1**

11. **Budget Adjustment Request (#10-02): Increase in expenses with offsetting increase in revenue:**

Hafs reported that the Land & Water Conservation Department received a grant from the US Fish & Wildlife Service to do work in the Village of Suamico through the Pike Habitat Project. The grant amount awarded was not fully spent or reimbursed in 2009 and is available to be used in the project area through 12/31/2011. It is anticipated that this money will be allocated to participating landowners and reimbursed to the County in 2010 for work done in the project area.

12. **Budget Adjustment Request (#10-31): Increase in expenses with offsetting increase in revenue:**

In late 2009, the Land & Water Conservation Department received an additional grant through the Natural Resources Damage Assessment to inventory Pike spawning numbers in the Suamico River Watershed as part of the Northern Pike Habitat Project. A limited term employee will be hired annually for 2 months (March-May) to do the inventory work. This grant totals \$20,000 over 4 years of which the remaining \$15,000 will be included in the departments' 2011 budget.

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to approve #'s 11 and 12. MOTION APPROVED UNANIMOUSLY**

13. **Director's Report:**

Bill Hafs addressed the following:

- Great Lakes Non-point Abatement Coalition (included in packet material), indicating that staff recommendation is to: 1) establish livestock density requirements; or 2) to help farmers with wastewater treatment on their facilities.
- A hearing on Senator Dave Hanson's draft for a law relating to karst legislation is scheduled for tomorrow, 3/23/10. Brown County has gone on record in support this legislation.

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to receive and place on file.. MOTION APPROVED UNANIMOUSLY**

- 13a. **Communication from Supervisor Scray re: With fears of revenue from State and Federal sources being cut, I am asking each Department Head to decide ahead of time where they could cut another 10%, if needed, while doing their budget process. This may include mandated services that department heads feel are not beneficial to County and the penalties are not severe.**

**Motion made by Supervisor Haefs and seconded by Supervisor Erickson to hold until the April 2010 meeting. MOTION APPROVED UNANIMOUSLY**

**14. Such Other Matters as Authorized by Law:**

A memo from Jayme Sellen, Legislative Assistant, regarding support for Senate Bill 632 was distributed and is attached. Ms. Sellen indicated that Brown County supports Senate Bill 632 which relates to the control of nonpoint source water pollution in certain areas with carbonate bedrock. This legislation will help industries that land apply various waste streams to avoid areas of carbonate bedrock also known as a karst feature. She added that Brown County has been working with several area businesses to provide a solution to the problem faced in southern Brown County – that being contamination of wells with bacteria, e-coli, and nitrates.

**Motion made by Supervisor Kaster and seconded by Supervisor Erickson to adjourn at 6:43 p.m. MOTION APPROVED UNANIMOUSLY**

Respectfully submitted,

Rae G. Knippel  
Recording Secretary



## Brown County

1150 BELLEVUE ST.  
GREEN BAY, WI 54302

BILL HAFS

PHONE (920) 391-4620 FAX (920) 391-4617 WEB: www.co.brown.wi.us

COUNTY CONSERVATIONIST

PHONE (920) 391-4639 FAX (920) 391-4617 EMAIL: [wetenkamp\\_dl@co.brown.wi.us](mailto:wetenkamp_dl@co.brown.wi.us)

DAVE WETENKAMP  
ENGINEERING TECHNICIAN

## Notice of Intent (Animal Feedlot)

This letter was drafted in order to provide you with information about a new or expansion of an existing Animal Feedlot being planned near your property under authority of Chapter 26 of the Brown County Administrative Code.

I/We (Kevin Collins, Lisa Collins) are aware of the Animal Feedlot project  
NEIGHBOR'S NAME(S) PRINTED

being planned for Quiet crest Farm. I/We are also aware of the Brown County Land Conservation Subcommittee meeting being held March 22, 2010 at 6:00 p.m. at the Land Conservation office, for a request for a variance to the Brown County Animal Waste Management Ordinance. The ordinance requires a 100-foot setback of an Animal Feedlot from an adjacent owner's property line. At this time I/We have/have no comments or objections with the placing of the feedlot or structures for Quiet crest Farm within 100 feet of my property line.

Kevin J. Collins  
NEIGHBOR'S SIGNATURE

Date: 3-18-10

Lisa M. Collins  
NEIGHBOR'S SIGNATURE

Date: 3-18-10

Enclosed for your information is an aerial view of the site with the location of the planned feedlot project and a copy of Brown County's Animal Waste Ordinance. Please review and circle the above italicized statement, which fits your position on the location of the Animal Feedlot and send back to Brown County Land Conservation Department with the enclosed stamped envelope.

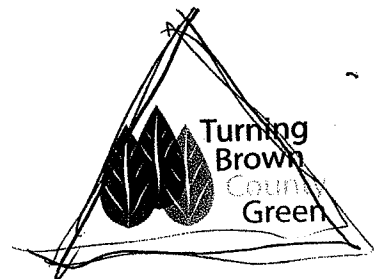
If you have questions or concerns about this project you can call our office, attend the meeting or submit written comments to the Brown County Land Conservation Department at the above address before the March 22 meeting.

Brown County does not endorse or assume responsibility for the use or misuse of this Animal Feedlot in the future regarding odor, manure runoff, feed leachate runoff, over application of wastes, management, maintenance, agricultural generated noises or health/safety liabilities. This feedlot is being designed and inspected to follow all local, state and federal standards and specifications. If there are any changes to the above meetings or dates you will be notified by mail or phone.

Sincerely,

Thank-you

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**From:** Hafs\_BC [mailto:Hafs\_BC@co.brown.wi.us]

**Sent:** Wednesday, March 10, 2010 3:18 PM

**To:** Todd Parczick; Mark@alliancebuilds.com; Marty@ibfco.com; rwolter@q.com; Mark@ibfco.com; Marc Hess; Kevin Cornelius; Pete King; jim@jimtenuta.com

**Cc:** Petersen\_BA; Holtz\_BP; BErickson6@new.rr.com; Mike Fleck; Sellen\_JB; Bechle\_JE; Flicek\_CA

**Subject:** Kick off meeting March 10, 2010

**Kick off meeting for Manure Issues**

**March 10, 2010**

**Brown County Land and Water Conservation Department Office**

**Present**

**Todd Parczick**, Alliance/Oneida

**Mark VerHaagh**, Alliance/Oneida

**Marty Johnson**, President, International Bio Fuels

**Rodney Wolter**, International Bio Fuels

**Mark Ryan**, International Bio Fuels

**Tom Perock**, Alliance Construction & Design

**Bernie Erickson**, Brown County Board, Chair - Planning and Development Committee, Land Conservation Committee

**Mike Fleck**, Brown County Board, Land Conservation Committee, Planning and Development Committee

**Brent Petersen**, Agronomist, Brown County Land and Water Conservation Department

**Mark Hess**, IEP Development

**Kevin Cornelius**, CEO, Oneida Seven Generations Corporation

**Chris Flicek**, Engineering, Brown County Land and Water Conservation Department

**Jon Bechle**, Program Manager, Animal Waste Management Ordinance, Brown County Land and Water Conservation Department

**Brad Holtz**, Agronomist, Brown County Land and Water Conservation Department

**Pete King**, Project Manager, Oneida Seven Generations Corporation

**Jim Tenuta**, Oneida Tribe

Thank you all for attending this mornings meeting.

Thank you Todd for taking the lead on organizing all the participants who joined today's meeting.

The information provided was interesting and consistent with Brown County Land and Water Conservation Department Goals of Sustaining our Dairy Livestock Industry and protecting surface and groundwater resources in Brown County.

I would offer our department support by joining grant applications that can help you start the bio systems you described and offer our technical assistance to review any proposals that you might develop. Brad Holtz from our office (391-4630) has worked on composting and waste transformation projects for over 5 years and could be helpful from a technical assistance standpoint. Brent Petersen (391-4643) can also be of assistance regarding agronomic technical assistance.

Attached is a link to the document I provided at the meeting this morning which provides statistics regarding dairy livestock, animal waste, and related water quality issues in Brown County.

[http://www.co.brown.wi.us/departments/forms\\_and\\_documents/?department=097c0e79486a&subdepartment=7c17181709a3](http://www.co.brown.wi.us/departments/forms_and_documents/?department=097c0e79486a&subdepartment=7c17181709a3)

2010 AWRA Livestock Sustainability - [Download](#)

We look forward to seeing your proposals regarding the advancement of this project.

Regards,

***Bill Hafs***

**Brown County Land and Water Conservation Department**

**1150 Bellevue Street**

**Green Bay, Wisconsin 54302**

**920-391-4633**

**[hafs\\_bc@co.brown.wi.us](mailto:hafs_bc@co.brown.wi.us)**

②



Bill,

I'm willing to be a resource for you on this matter. I can be available for a phone hook-up if you wish. As it happens I was requested to provide an opinion on the Efrim system as well as anaerobic digestion, a few weeks ago. Below was my response. If asked, this would be my message on the 24th as well.

Ed

There isn't a stock reply for these technologies because none of them deal with all of the concerns related to manure management. For example, anaerobic digestion doesn't change the volume or the nutrient concentration of manure, therefore manure storage and nutrient management have to augment the digestion system to ensure environmental protection. In the case of the manure briquettes, this appears to be an outlet for the manure solids only. The liquid fraction remains on the farm and requires storage and land application.

This is likely to be 90% + of the volume and a significant fraction (greater than half) of the nutrients. As a treatment system, the briquette system only partially deals with the manure. It is a means to export some portion of the nutrients from the farm and to extract some energy. Unfortunately the system also exports much of the organic matter.

The reality is that there isn't a silver bullet technology to make manure go away. And if there was, that would be a disaster for agriculture as we would then be mining our soils of organic matter and nutrients. Nutrients can be purchased commercially but organic matter cannot. This is particularly of concern with livestock operations due to the near complete removal of biomass with forage harvesting. Returning manure to the soil is what makes livestock production an agricultural activity (cyclic, sustainable, biological process) as opposed to an industrial process (linear, removal and relocating resources to where they are transformed into products and waste).

Most of the manure treatment technologies we see are partial. They are intended to reduce the water content and concentrate nutrients with the goal of reducing the cost of transporting manure back to the land from whence it came, or at least to land that can tolerate it. On farms that have dissociated animals from the land that fed them, the costs of transporting the manure is high and "treatment" technologies are needed to fix that fundamental problem. Inherently, very large concentrations of livestock run into this problem but smaller farms may have this problem too if they have specialized and expanded beyond the available land base.

Complete manure treatment would be to reduce manure to clean water of discharge quality, and a concentrated sludge. Think municipal treatment systems. This is feasible for manure but cost prohibitive. Milk prices couldn't support such expensive systems. In terms of waste generated, one cow is the equivalent to 18 to 20 people, so you can picture the treatment system needed for a good sized farm. If farms are configured and managed appropriately, such treatment is completely unnecessary. In fact, most treatment systems are intended to fix some deficiency, usually the disconnect between the animals and the land that feeds them. The low-cost manure management system will always be a land based system that utilizes the biotic community of the soil. That system, if located, managed, and sized appropriately, will also be environmentally sound, sustainable and robust. That system won't work if you insist on putting dairies where they don't belong or fit, thus the need for technological alternatives.

Unfortunately, the land based system is rarely a perfect fit either, so some technological assistance, manure storage for example, is often needed.

Striking a balance is hard but I generally assume the extremes will fail.

To clarify, I don't put anaerobic digestion (AD) in the category of "treatment systems." AD is a means to extract energy from manure. Other practices are often coupled to AD systems to dewater or separate solids, but AD itself does not transform manure substantially so as to be labeled a treatment system for water quality purposes.

Long answer to what you posed as a simple question. In summary, none of the technologies I've evaluated let producers completely off the environmental hook, so to speak. Furthermore, it is my opinion that the emerging social debate about the size of livestock operations is as much about socio-economic issues as it is about the environment. We don't have a scientific forum for that part of the debate but it is critical to begin the discussion.

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**From:** Hafs\_BC [mailto:Hafs\_BC@co.brown.wi.us]  
**Sent:** Friday, March 12, 2010 11:24 AM  
**To:** Odgers, Ed J - DATCP  
**Cc:** Holtz\_BP  
**Subject:** FW: Efrim re-schedule

Ed-

Brown County is meeting with **EFRIM at 1:30 pm on Monday March 22, 2010 in Room 161** at our Land and Water Conservation Office at 1150 Bellevue Street Green Bay. You can see from the attached email below the attendees that have been invited.

Our County Executive will also be in attendance.

I want to extend an invitation to you to attend as well. Your knowledge and comments made during our dinner at WALCE would be useful at this meeting. It is a long way to come to a meeting – I understand. If you cannot attend would you consider attending via conference phone call?

Let me know.

Regards,

***Bill Hafs***

**Brown County Land and Water Conservation Department**  
**1150 Bellevue Street**  
**Green Bay, Wisconsin 54302**  
**920-391-4633**  
**hafs\_bc@co.brown.wi.us**

**Brown County**  
**Land Conservation**  
**Budget Status Report (unaudited)**  
12/31/2009

	Annual Budget Amended	YTD Transactions
Salaries	\$ 500,618	\$ 495,519
Fringe Benefits	\$ 226,282	\$ 231,776
Operations & Maintenance	\$ 33,436	\$ 30,335
UTL Utilities	\$ 11,384	\$ 10,436
CHG Chargebacks	\$ 148,172	\$ 144,983
CON Contracted services	\$ 524	\$ -
OTH Other	\$ 228,340	\$ 145,224
OUT- Outlay	\$ 6,211	\$ (194)
TRO - Transfer out	\$ 1,745	\$ 36,679
<b>Total Expenses</b>	<b>\$ 1,156,712</b>	<b>\$ 1,094,757</b>
Property Tax Revenue	\$ 551,099	\$ 551,099
Intergov't Revenue	\$ 446,960	\$ 354,813
L&P licenses & permits	\$ 47,000	\$ 81,204
CSS - Charges for sales services	\$ 91,000	\$ 109,648
Misc Rev.	\$ 504	\$ 1,897
CTB Contributions	\$ 4,000	\$ 4,000
TRI Transfer in	\$ 16,149	\$ 15,449
<b>Grand Total Revenues</b>	<b>\$ 1,156,712</b>	<b>\$ 1,118,110</b>

Indirect cost, I.S., Insurance

Grant exp., landowner payments WD, WS, L&W

Levy

State grants , Federal grants

Permits, inspections

Ag 50 cent fee, Tree sales

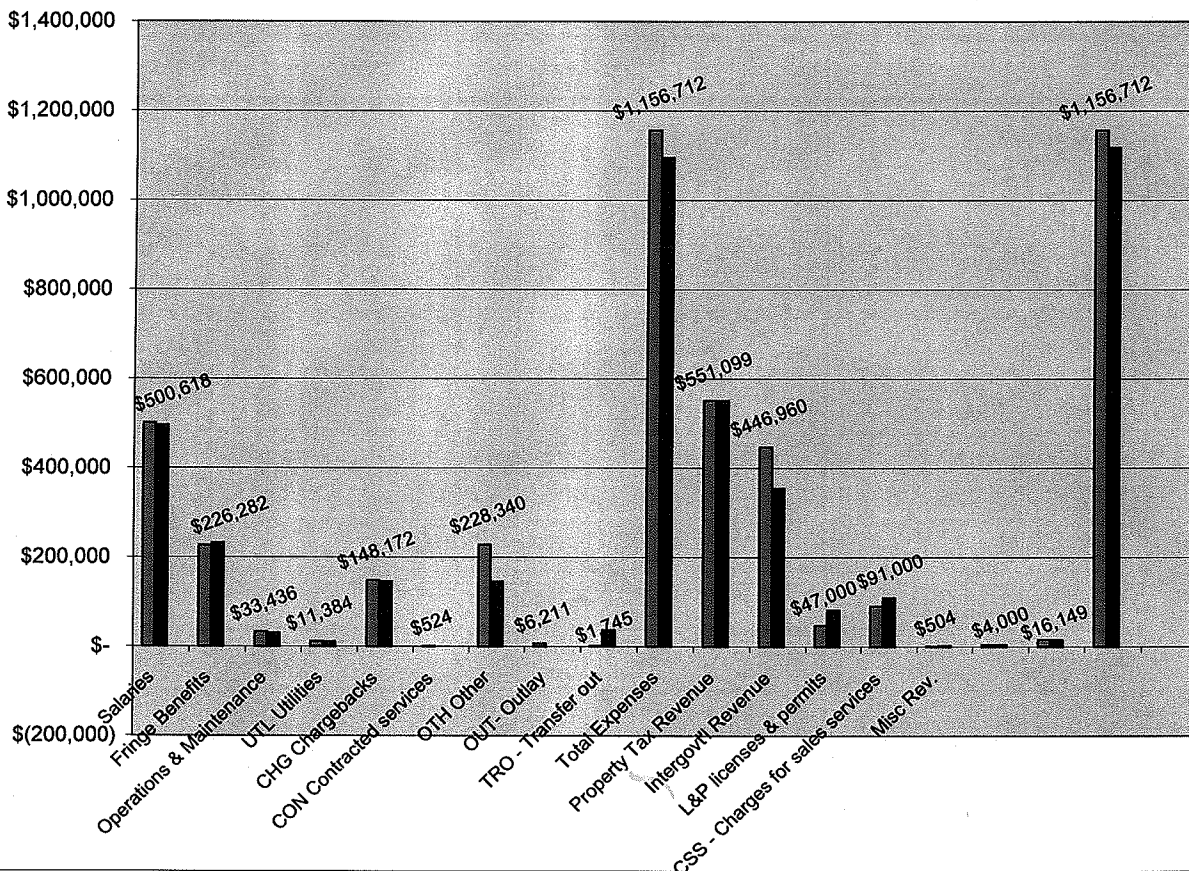
WLWCA, sportmans clubs

Donations

\$38,602+

**Land Conservation - December 31, 2009**

■ Annual Budget Amended  
■ YTD Transactions



## MEMORANDUM

TO: Members of the Senate Committee on Environment

FROM: Jayme Sellen, Legislative Assistant

DATE: March 23, 2010

SUBJECT: Support for Senate Bill 632

Brown County supports Senate Bill 632 relating to the control of nonpoint source water pollution in certain areas with carbonate bedrock. This legislation will help industries that land apply various waste streams to avoid areas of carbonate bedrock also known as a karst feature.

Southern Brown County contains a karst feature where top soils are shallow providing a conduit for pathogens and nutrients to seep into the groundwater. Over the past several years, the Town of Morrison has reports of over 100 wells contaminated with bacteria, e-coli and nitrates. These contaminants in drinking water can cause severe illness and even death to small children.

Finding the solution to the fix the well contamination problems in karst areas will take a two pronged approach. First, we need to stop land applying waste in sensitive areas. Providing maps, directing where waste can be safely applied is a step in the right direction. Unfortunately, this is not a long-term solution. Secondly, the State of Wisconsin needs make a commitment to rural residents and farmers alike. Funding for the cost-sharing of new technologies is a must.

Brown County has been working with several Brown County businesses to provide a solution to the problem we face in southern Brown County. The Brown County Waste Transformation Initiative would take all types of waste streams, remove the pathogens and pelletize the nutrients to make it safe to apply to areas of shallow bedrock.

We cannot afford to ignore the public health problems that exist in karst areas. We also cannot afford to restrict farmers without providing the funds necessary for them to meet those restrictions.

(B)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-4264/1

RCT:cjs:rs

## 2009 BILL

1     **AN ACT** *to renumber and amend* 281.16 (4) and 823.08 (3) (c) 2.; *to amend*  
2         23.50 (1), 23.65 (1), 92.05 (3) (k), 92.05 (3) (L), 92.07 (2), 92.14 (6) (i) 2., 92.15  
3         (2), 92.15 (3) (a), 92.15 (4), 93.90 (2) (a), 281.16 (3) (e), 281.65 (4) (e), 281.65 (4c)  
4         (am) 1. a. and 823.08 (3) (c) 1.; and *to create* 92.04 (2) (m), 92.14 (3) (em), 281.16  
5         (5), 281.163 and 823.08 (3) (c) 2. b. of the statutes; **relating to:** control of  
6         nonpoint source water pollution in certain areas with carbonate bedrock and  
7         granting rule-making authority.

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### ***Analysis by the Legislative Reference Bureau***

Current law requires the Department of Natural Resources (DNR) and the Department of Agriculture, Trade and Consumer Protection (DATCP) to promulgate rules to limit nonpoint source water pollution, that is, water pollution from diffuse sources, such as construction sites and feedlots.

This bill requires DNR, in consultation with DATCP, to promulgate rules to limit pollution of groundwater caused by the spreading of any kind of waste, including animal waste, septage, sewage sludge, and industrial waste, on land (land spreading). Under the bill, the rules apply to certain areas with carbonate bedrock that are susceptible to groundwater contamination caused by land spreading and that are not sufficiently protected by the current rules concerning nonpoint source water pollution. The rules promulgated under this bill apply to susceptible areas in

**BILL**

covered counties, which are Brown County, Calumet County, Door County, Kewaunee County, Manitowoc County, and any other county that opts to have them apply. The bill also requires DATCP to make its existing rules concerning nutrient management consistent with the new DNR rules concerning land spreading on susceptible lands in covered counties.

To identify the areas for which additional regulation of land spreading is potentially needed, the bill requires DNR to identify areas in this state that exhibit carbonate bedrock characteristics that may cause them to be susceptible to groundwater contamination from land spreading, including areas that have carbonate bedrock less than 50 feet from the surface of the land. The bill requires DNR to promulgate rules for ranking the land in potentially susceptible areas into categories according to relative vulnerability to groundwater contamination from land spreading, based on factors that include bedrock features and the depth and other characteristics of top soil, and to identify the categories for which additional regulation is needed.

The bill requires the county land conservation committee in a covered county to categorize the land in potentially susceptible areas (as identified by DNR) in the county according to the rules for ranking those lands. The bill provides a process for a land owner or other person, including DNR and DATCP, to obtain a review of a land conservation committee's categorization of land. The bill also requires DATCP to produce maps that show land that is categorized under this process, by category, and to post those maps on its Internet site.

The bill authorizes DNR to enforce the rules concerning land spreading on susceptible lands by issuing citations, which are similar to traffic tickets. A district attorney may also proceed against a person who violates the rules.

The rules promulgated by DNR and DATCP under current law to limit nonpoint source water pollution, as described above, do not apply to an agricultural facility or practice that was in existence before October 14, 1997, unless financial assistance is available to pay a portion of the cost of complying with the rules.

Under this bill, the current rules to limit nonpoint source water pollution apply to an agricultural facility or practice, in a covered county, that was in existence before October 14, 1997, without regard to whether financial assistance is available, if the facility or practice is on land categorized in a category with heightened vulnerability to groundwater contamination and is in an area with a level of groundwater contamination that may affect public health, as determined under rules promulgated by DNR.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**BILL**

1           23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit  
2 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,  
3 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.163 (5), 281.48 (2)  
4 to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64  
5 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any  
6 administrative rules promulgated thereunder, violations specified under s. 280.98  
7 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal,  
8 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),  
9 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances  
10 enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

11           **SECTION 2.** 23.65 (1) of the statutes is amended to read:

12           23.65 (1) When it appears to the district attorney that a violation of s. 90.21,  
13 134.60, 281.163 (5), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4),  
14 287.07, 287.08, 287.81 or 299.64 (2), this chapter or ch. 26, 27, 28, 29, 30, 31, 169, or  
15 350, or any administrative rule promulgated pursuant thereto, a violation specified  
16 under s. 285.86, or a violation of ch. 951, if the animal involved is a captive wild  
17 animal, has been committed the district attorney may proceed by complaint and  
18 summons.

19           **SECTION 3.** 92.04 (2) (m) of the statutes is created to read:

20           92.04 (2) (m) *Review of carbonate bedrock area determinations.* The board shall  
21 review and affirm or reverse decisions of county land conservation committees under  
22 s. 281.163 (4) (b) when review is requested under s. 281.163 (4) (c). Under this  
23 paragraph, the board may conduct an informal hearing that is not a contested case  
24 under ch. 227.

25           **SECTION 4.** 92.05 (3) (k) of the statutes is amended to read:

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## SECTION 4

1           92.05 (3) (k) *Nutrient management rules.* The department shall promulgate  
2 rules to improve agricultural nutrient management in this state. The rules shall be  
3 consistent with rules promulgated under s. 281.16 (3) and, for lands to which the  
4 rules promulgated under s. 281.163 (5) (b) apply, with those rules and shall include  
5 incentives, educational and outreach provisions and compliance requirements.

6           SECTION 5. 92.05 (3) (L) of the statutes, as affected by 2009 Wisconsin Act 28,  
7 is amended to read:

8           92.05 (3) (L) *Technical assistance; performance standards.* The department  
9 shall provide technical assistance to county land conservation committees and local  
10 units of government for the development of ordinances that implement standards  
11 adopted under s. 92.07 (2), 92.15 (2) or (3) or 281.16 (3) and, for lands to which the  
12 rules promulgated under s. 281.163 (5) (b) apply, that implement the standards in  
13 those rules. The department's technical assistance shall include preparing model  
14 ordinances, providing data concerning the standards and reviewing draft ordinances  
15 to determine whether the draft ordinances comply with applicable statutes and  
16 rules.

17           SECTION 6. 92.07 (2) of the statutes is amended to read:

18           92.07 (2) STANDARDS. Each land conservation committee may develop and  
19 adopt standards and specifications for management practices to control erosion,  
20 sedimentation and nonpoint source water pollution. The standards and  
21 specifications for agricultural facilities and practices that are constructed or begun  
22 on or after October 14, 1997, and, if cost-sharing is available to the owner or operator  
23 under s. 92.14 or 281.65 or from any other source or if, as determined under s. 281.16  
24 (5) (b), the agricultural facilities or practices are located on land that is categorized  
25 under s. 281.163 (4) in a category with heightened vulnerability to groundwater



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1 contamination and the land is in an area with characteristics that indicate a level  
2 of groundwater contamination that affects public health, for agricultural facilities  
3 and practices that are constructed or begun before that date shall be consistent with  
4 the performance standards, prohibitions, conservation practices and technical  
5 standards under s. 281.16 (3) and, for agricultural facilities and practices on lands  
6 to which the rules promulgated under s. 281.163 (5) (b) apply, with those rules. The  
7 land conservation committee shall use the rules promulgated under s. 281.16 (3) (e)  
8 to determine whether cost-sharing is available.

9 **SECTION 7.** 92.14 (3) (em) of the statutes is created to read:

10 92.14 (3) (em) Grants to farmers for implementing land and water resource  
11 management projects on lands categorized under s. 281.163 (4) undertaken to  
12 comply with the requirements under s. 281.163 (5) (b).

13 **SECTION 8.** 92.14 (6) (i) 2. of the statutes is amended to read:

14 92.14 (6) (i) 2. Conduct all land management and pollutant management  
15 activities in substantial accordance with the performance standards, prohibitions,  
16 conservation practices and technical standards under s. 281.16 and, if applicable,  
17 under s. 281.163 (5) (b) and with plans approved under this section, under s. 92.15,  
18 1985 stats., and under ss. 92.10 and 281.65, or to repay the cost-sharing funds.

19 **SECTION 9.** 92.15 (2) of the statutes is amended to read:

20 92.15 (2) Notwithstanding ss. 92.11 and 92.17, a local governmental unit may  
21 enact regulations of livestock operations that are consistent with and do not exceed  
22 the performance standards, prohibitions, conservation practices and technical  
23 standards under s. 281.16 (3) and, for livestock operations on lands to which the rules  
24 promulgated under s. 281.163 (5) (b) apply, the prohibitions and performance  
25 standards in those rules.

**BILL****SECTION 10**

1           **SECTION 10.** 92.15 (3) (a) of the statutes is amended to read:

2           92.15 (3) (a) Notwithstanding ss. 92.11 and 92.17, a local governmental unit  
3           may enact regulations of livestock operations that exceed the performance  
4           standards, prohibitions, conservation practices and technical standards under s.  
5           281.16 (3) and, for livestock operations on lands to which the rules promulgated  
6           under s. 281.163 (5) (b) apply, the prohibitions and performance standards in those  
7           rules only if the local governmental unit demonstrates to the satisfaction of the  
8           department of agriculture, trade and consumer protection or the department of  
9           natural resources that the regulations are necessary to achieve water quality  
10          standards under s. 281.15.

11          **SECTION 11.** 92.15 (4) of the statutes is amended to read:

12          92.15 (4) A local governmental unit may not apply a regulation under sub. (2)  
13          or (3) to a livestock operation that exists on October 14, 1997, unless the local  
14          governmental unit determines, using the rules promulgated under s. 281.16 (3) (e),  
15          that cost-sharing is available to the owner or operator of the livestock operation  
16          under s. 92.14 or 281.65 or from any other source or, as determined under s. 281.16  
17          (5) (b), the livestock operation is located on land that is categorized under s. 281.163  
18          (4) in a category with heightened vulnerability to groundwater contamination and  
19          the land is in an area with characteristics that indicate a level of groundwater  
20          contamination that affects public health.

21          **SECTION 12.** 93.90 (2) (a) of the statutes is amended to read:

22          93.90 (2) (a) For the purposes of this section, the department shall promulgate  
23          rules specifying standards for siting and expanding livestock facilities. In  
24          promulgating the rules, the department may incorporate by cross-reference  
25          provisions contained in rules promulgated under ss. 92.05 (3) (c) and (k), 92.14 (8),

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1     92.16, and 281.16 (3) and ch. 283 and, for lands to which the rules promulgated under  
2     s. 281.163 (5) (b) apply, in those rules. The department may not promulgate rules  
3     under this paragraph that conflict with rules promulgated under s. 92.05 (3) (c) or  
4     (k), 92.14 (8), 92.16, or 281.16 (3) or ch. 283 or, for lands to which the rules  
5     promulgated under s. 281.163 (5) (b) apply, with those rules.

6           **SECTION 13.** 281.16 (3) (e) of the statutes, as affected by 2009 Wisconsin Act 28,  
7     is amended to read:

8           281.16 (3) (e) ~~An~~ Except as provided in sub. (5) (a), an owner or operator of an  
9     agricultural facility or practice that is in existence before October 14, 1997, may not  
10    be required by this state or a municipality to comply with the performance standards,  
11    prohibitions, conservation practices or technical standards under this subsection  
12    unless cost-sharing is available, under s. 92.14 or 281.65 or from any other source,  
13    to the owner or operator. For the purposes of this paragraph, sub. (4) ~~(b)~~ and ss. 92.07  
14    (2), 92.15 (4) and 823.08 (3) (c) 2., the department of natural resources shall  
15    promulgate rules that specify criteria for determining whether cost-sharing is  
16    available under s. 281.65 and the department of agriculture, trade and consumer  
17    protection shall promulgate rules that specify criteria for determining whether  
18    cost-sharing is available under s. 92.14 or from any other source. The rules may not  
19    allow a determination that cost-sharing is available to meet local regulations under  
20    s. 92.07 (2) or 92.15 that are consistent with or that exceed the performance  
21    standards, prohibitions, conservation practices or technical standards under this  
22    subsection unless the cost-sharing is at least 70% of the cost of compliance or is from  
23    70% to 90% of the cost of compliance in cases of economic hardship, as defined in the  
24    rules.

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## SECTION 14

1           **SECTION 14.** 281.16 (4) of the statutes is renumbered 281.16 (4) (a) and  
2 amended to read:

3           281.16 (4) (a) If the department issues a notice of discharge under ch. 283 for  
4 an animal feeding operation, the performance standards, prohibitions, conservation  
5 practices and technical standards under sub. (3) apply to the animal feeding  
6 operation, except ~~that if the~~ as provided in par. (b).

7           **(b)** If an animal feeding operation for which the department of natural  
8 resources issues a notice of discharge under ch. 283 is in existence before  
9 October 14, 1997, the performance standards, prohibitions, conservation practices  
10 and technical standards only apply if the department determines that cost-sharing  
11 is available to the owner or operator of the animal feeding operation under s. 92.14  
12 or 281.65 or from any other source, except as provided in sub. (5) (a).

13           **SECTION 15.** 281.16 (5) of the statutes is created to read:

14           281.16 (5) APPLICATION IN CARBONATE BEDROCK AREAS. (a) Subsections (3) (e) and  
15 (4) (b) do not apply to an agricultural facility or practice or animal feeding operation  
16 that is located on land that is categorized under s. 281.163 (4) in a category with  
17 heightened vulnerability to groundwater contamination if the land is in an area with  
18 characteristics that indicate a level of groundwater contamination that affects public  
19 health.

20           (b) The department shall promulgate rules that do all of the following for the  
21 purposes of par. (a) and ss. 92.07 (2), 92.15 (4), and 823.08 (3) (c):

22           1. Designate the categories under s. 281.163 (3) (a) that have heightened  
23 vulnerability to groundwater contamination.

24           2. Specify the characteristics that indicate levels of groundwater  
25 contamination that affect public health, such as the existence in an area of a well in

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1 which the concentration of contaminants exceeds a preventive action limit, as  
2 defined in s. 160.01 (6).

3 **SECTION 16.** 281.163 of the statutes is created to read:

4 **281.163 Water quality protection; carbonate bedrock areas. (1)**

5 DEFINITIONS. In this section:

6 (a) “Covered county” means Brown County, Calumet County, Door County,  
7 Kewaunee County, Manitowoc County, and any other county that, by resolution of  
8 its county board, opts to have subs. (3) to (6) apply in the county.

9 (b) “Land spreading” means spreading animal waste, septage, sewage sludge,  
10 industrial waste, or any other type of solid waste on the surface of the land or  
11 incorporating animal waste, septage, sewage sludge, industrial waste, or any other  
12 type of solid waste into the surface layers of the soil.

13 (c) “Potentially susceptible area” means an area identified by the department  
14 under sub. (2).

15 (d) “Septage” has the meaning given in s. 281.48 (1) (d).

16 **(2) IDENTIFICATION OF POTENTIALLY SUSCEPTIBLE AREAS.** Using information  
17 available to it, the department shall identify areas in this state that exhibit  
18 carbonate bedrock characteristics that may cause the areas to be susceptible to  
19 groundwater contamination from land spreading. At a minimum, the department  
20 shall identify an area under this subsection if the area has carbonate bedrock less  
21 than 50 feet from the surface of the land, as shown by bedrock maps produced by the  
22 geological and natural history survey and other maps identified by the department.

23 **(3) RULES FOR VULNERABILITY RANKING OF LAND IN POTENTIALLY SUSCEPTIBLE**  
24 **AREAS.** (a) The department shall promulgate rules for ranking the land in potentially

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1 susceptible areas by categories according to relative vulnerability to groundwater  
2 contamination from land spreading, based on factors that include all of the following:

3 1. Bedrock features.

4 2. Depth and other characteristics of top soil.

5 3. Whether the department has declared the land to be an area of special  
6 eligibility for compensation for well contamination under s. 281:75 (2) (e).

7 4. Whether the department has established the land as a special well casing  
8 pipe depth area under ch. NR 812, Wis. Adm. Code.

9 (b) In the rules under par. (a), the department shall identify types of uses of land  
10 that preclude land spreading on the land.

11 **(4) CATEGORIZING POTENTIALLY SUSCEPTIBLE LAND.** (a) The county land  
12 conservation committee in a covered county shall categorize all land in potentially  
13 susceptible areas in the covered county, except for land that is in a land use identified  
14 under sub. (3) (b), according to the rules under sub. (3) (a).

15 (b) 1. The owner of land categorized under par. (a), the department of natural  
16 resources, the department of agriculture, trade and consumer protection, an  
17 organization, or any other person may request a county land conservation committee  
18 to review the categorization based on site-specific information showing the  
19 categorization to be inconsistent with the rules under sub. (3).

20 2. A county land conservation committee receiving a request under subd. 1.  
21 shall conduct an informal hearing on the request. A county land conservation  
22 committee shall provide public notice of a request under this subdivision. Section  
23 68.11 (2) does not apply to the hearing. The county land conservation committee  
24 shall provide reasonable notice of the hearing to the person requesting the review  
25 and, if not the person requesting the review, to the owner of the land, the department

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1 of natural resources, and the department of agriculture, trade and consumer  
2 protection.

3 (c) The owner of land categorized under par. (a), the department of natural  
4 resources, the department of agriculture, trade and consumer protection, an  
5 organization, or any other person may may obtain a review of the decision of a county  
6 land conservation committee under par. (b) by filing a written request with the land  
7 and water conservation board within 60 days after the day on which the county land  
8 conservation committee issues the decision.

9 (d) The owner of land categorized under par. (a), the department of natural  
10 resources, the department of agriculture, trade and consumer protection, the county  
11 in which the land is located, an organization, or any other person may request a  
12 contested case hearing under ch. 227 to review the decision of the land and water  
13 conservation board under par. (c) by filing a written request with the department of  
14 natural resources within 60 days after receiving an adverse decision of the land and  
15 water conservation board.

16 **(4m)** MAPPING OF POTENTIALLY SUSCEPTIBLE LAND. The department of  
17 agriculture, trade and consumer protection, in cooperation with county land  
18 conservation committees, the natural resources conservation service of the federal  
19 department of agriculture, the University of Wisconsin–Madison department of soil  
20 science, the geological and natural history survey, and the department of natural  
21 resources, shall indicate land categorized under sub. (4), by ranking, on maps that  
22 show areas in which nutrient applications are restricted under ss. 92.05 (3) (k) and  
23 281.16 (3) and shall post the maps on its Internet site.

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1           **(5) REGULATION.** The department of natural resources, in consultation with the  
2           department of agriculture, trade and consumer protection, shall promulgate rules  
3           that do all of the following:

4           (a) Identify the categories under sub. (3) (a) of potentially susceptible land for  
5           which regulation of land spreading activities, in addition to regulation under s.  
6           281.16, is needed to prevent or minimize nonpoint source pollution of groundwater.

7           (b) Prescribe performance standards and prohibitions to prevent or minimize  
8           nonpoint source pollution of groundwater from land spreading on land in the  
9           categories identified under par. (a).

10          **(6) ENFORCEMENT.** (a) The department may follow the procedures for the  
11          issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture under s. 281.98  
12          (1) for a violation of rules promulgated under sub. (5).

13          (b) A county land conservation committee may request the district attorney of  
14          the county to exercise the district attorney's authority to proceed under s. 23.65  
15          against a person for a violation of rules promulgated under sub. (5).

16          **SECTION 17.** 281.65 (4) (e) of the statutes is amended to read:

17          281.65 **(4) (e)** Promulgate rules, in consultation with the department of  
18          agriculture, trade and consumer protection, as are necessary for the proper  
19          execution and administration of the program under this section. Before  
20          promulgating rules under this paragraph, the department shall submit the rules to  
21          the land and water conservation board for review under sub. (3) (at). The rules shall  
22          include standards and specifications concerning best management practices which  
23          are required for eligibility for cost-sharing grants under this section. The standards  
24          and specifications shall be consistent with the performance standards, prohibitions,  
25          conservation practices and technical standards under s. 281.16 and under s. 281.163



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1     (5) (b), where applicable. The department may waive the standards and  
2     specifications in exceptional cases. The rules shall specify which best management  
3     practices are cost-effective best management practices. Only persons involved in the  
4     administration of the program under this section, persons who are grant recipients  
5     or applicants and persons who receive notices of intent to issue orders under s. 281.20  
6     (1) (b) are subject to the rules promulgated under this paragraph. Any rule  
7     promulgated under this paragraph which relates or pertains to agricultural  
8     practices relating to animal waste handling and treatment is subject to s. 13.565.

9           **SECTION 18.** 281.65 (4c) (am) 1. a. of the statutes is amended to read:

10          281.65 **(4c)** (am) 1. a. The need for compliance with performance standards  
11          established by the department under ~~s. ss.~~ 281.16 (2) and (3) and 281.163 (5).

12          **SECTION 19.** 823.08 (3) (c) 1. of the statutes is amended to read:

13          823.08 **(3)** (c) 1. Subject to subd. 2., if a court requests the department of  
14          agriculture, trade and consumer protection or the department of natural resources  
15          for suggestions under par. (b) 2. a., the department of agriculture, trade and  
16          consumer protection or the department of natural resources shall advise the court  
17          concerning the relevant provisions of the performance standards, prohibitions,  
18          conservation practices and technical standards under s. 281.16 (3) and, for lands to  
19          which the rules promulgated under s. 281.163 (5) (b) apply, the prohibitions and  
20          performance standards in those rules.

21          **SECTION 20.** 823.08 (3) (c) 2. of the statutes is renumbered 823.08 (3) (c) 2.

22          (intro.) and amended to read:

23          823.08 **(3)** (c) 2. (intro.) If the agricultural use or agricultural practice alleged  
24          to be a nuisance was begun before October 14, 1997, a department may advise the  
25          court under subd. 1. only if the one of the following applies:

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1        a. The department determines that cost-sharing is available to the defendant  
2        under s. 92.14 or 281.65 or from any other source.

3        **SECTION 21.** 823.08 (3) (c) 2. b. of the statutes is created to read:

4        823.08 (3) (c) 2. b. As determined under s. 281.16 (5) (b), the agricultural use  
5        or practice is located on land that is categorized under s. 281.163 (4) in a category  
6        with heightened vulnerability to groundwater contamination and the land is in an  
7        area with characteristics that indicate a level of groundwater contamination that  
8        affects public health.

9        **SECTION 22. Nonstatutory provisions.**

10        (1) **ADVISORY COMMITTEE.** The department of natural resources shall appoint a  
11        committee to advise it on the rules required under sections 281.16 (5) and 281.163  
12        of the statutes, as created by this act. The department shall include scientists and  
13        representatives of industry, agriculture, local government, environmental groups,  
14        and other persons with interests that could be affected by the rules and shall ensure  
15        that an adequate number of members are from areas thought to be susceptible to  
16        groundwater contamination because of carbonate bedrock features.

17        (2) **TASK FORCE REPORT.** The department of natural resources and the advisory  
18        committee under subsection (1) shall review the recommendations in the Final  
19        Report of the Northeast Wisconsin Karst Task Force, February 9, 2007, before the  
20        department promulgates the rules required under section 281.163 of the statutes, as  
21        created by this act. The department shall incorporate recommendations in the report  
22        in the rules required under section 281.163 of the statutes, as created by this act, as  
23        appropriate.

24        (3) **PROPOSED RULES.** The department of natural resources shall submit in  
25        proposed form the rules required under sections 281.16 (5) and 281.163 of the

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1 statutes, as created by this act, to the legislative council staff under section 227.15  
2 (1) of the statutes no later than the first day of the 24th month beginning after the  
3 effective date of this subsection.

4 (END)

